IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Writ Appeal Nos.1366 to 1368 & 1376 to 1379 of 2001

N.Krishnaveni ..Appellant in WA.1366/2001
Sangumuthiah ..Appellant in WA.1367/2001
S.Kathiresan ..Appellant in WA.1368/2001
S.Ganesan ..Appellant in WA.1376/2001
Maria Adaikallammal ..Appellant in WA.1377/2001
M.Poongothai ..Appellant in WA.1378/2001
G.Rathinam ..Appellant in WA.1379/2001

Vs.

1.State of Tamil Nadu,
rep. by the Secretary
to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

2.Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Executive Engineer & A.O.,
T.N.H.B. Kasim Centre,
Salai Street, Ramanathapuram
Housing Unit, Ramanathapuram. .. Respondents in all Writ Appeals

Writ appeals filed under Clause 15 of the Letters Patent against the order dated 18.12.2000 made in WP.Nos.19023 to 19025, 19019, 19022, 19020 and 19021 of 2000 respectively. Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the orders passed by the Government in G.O.Ms.No.174, Housing and Urban Development Department dated 23.2.1994 and G.O.Ms.No.424, Housing and Urban Development Department, dated 31.3.1995 issued under Section 4(1) and Secton 6 of the Land Acquisition Act respectively and quash the same in so far as the petitioners land (in each of the petition) is concerned.

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For Appellants : Mr.P.Rajamanickam
in all appeals

For Respondents 1&2 : Mr.C.Thirumaran
in all appeals Government Advocate

For 3rd respondent : Mr.S.Kasi Kumars

COMMON JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the common order of the learned single Judge dated 18.12.2000 made in W.P.Nos.19023 to 19025, 19019, 19022, 19020 and 19021 of 2000 respectively, dismissing the writ petitions filed for challenging the acquisition proceedings, the writ petitioners have filed the present writ appeals.

2. Heard the learned counsel appearing for the appellants as well as the respondents.

3. Even at the outset, Mr.P.Rajamanickam, learned counsel appearing for the appellants has brought to our notice that by common order dated 22.9.2000 in W.P.No.6110 of 1995 etc, wherein after accepting the contentions raised by the learned counsel for the petitioners therein, this Court quashed the acquisition proceedings. He further submitted that the lands covered in these appeals form part of the very same Government Order. He has also contended that the points raised in W.P.No.6110 of 1998 etc are raised in these cases also. However, according to the counsel, without adverting to the same, the learned single judge, after holding that since the petitioners have not filed any objection, dismissed all the writ petitions.

4. We have verified the contentions raised in the earlier batch of cases and grounds taken in all the writ petitions. We are satisfied that the petitioners have raised several contentions including the one that the publication made in the newspapers viz., "Madurai Mani" and "Kumari Murasu" have no circulation in the locality where the lands are situated. It is relevant to mention the exact stand taken in the grounds, which reads as under:

> "The petitioner humbly submits that Section 4(1) demands publication of the sum and substances in the local dailies with the object of making known to the land owners about what is being done by the Government. The object of local publication should not only be done

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and it must be done by properly publishing in local dailies which are prominently circulated in the area. In the instance case, they have published such a heavy scheme in the dailies viz., 1.Madurai Mani and 2.Kumari Murasu which are totally unknown to the people much less in the locality. These organs are not even circulated. Since separate notice was not served on the petitioner, if it was published in the local daily, he would have come and objected. Since it was not published he was not in a position to raise objection in time. Therefore, the publication of the notification in a daily not locally circulated cannot be construed as a proper publication and compliance of Section 4(1) of the Land Acquisition Act. Therefore, the proceedings are liable to be quashed."

5. In the earlier batch viz., W.P.No.6110/1995 etc dated 22.9.2000, the first contention relates to failure on the part of the respondents in making valid and effective publication under Section 4(1) of the Tamil Nadu Land Acquisition Act, 1894 (hereinafter referred to as "the Act"). In the same order, this Court, after referring to the earlier decision viz., 2000 (III) CTC 215 (Chelladurai N. Vs. Government of Tamil Nadu) and after finding that the said newspapers viz., Madurai Mani and Kumari Murasu are not having circulation in the locality and unknown to the people in the area, where the lands are situated, accepted the said contention and found that the mandatory provision under Section 4(1) of the Act has not been complied with. Though the said decision was brought to the notice of the learned single Judge, the learned single Judge has concluded that there was no reference to the said contention and proceeded as if that in the said decision, the issue dealt with relates to violation of Rule 4-B. In view of the fact that the publication in the dailies Madurai Mani and Kumari Murasu have no circulation in the locality as found in the earlier order and of the fact that compliance of all provisions under Section 4(1) of the Act are mandatory, we accept the stand taken by the appellants and on this ground, the acquisition proceedings are liable to be quashed. Accordingly, the acquisition proceedings are quashed and the writ appeals are allowed. No costs. However, liberty is given to the respondents that if they so desire, they are free to initiate fresh proceedings in accordance with law.

raa

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1.The Secretaryto Government,
State of Tamil Nadu,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

2.Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Executive Engineer & A.O.,
T.N.H.B. Kasim Centre,
Salai Street, Ramanathapuram
Housing Unit, Ramanathapuram.

7 ccs to Mr.P.Rajamanickam, Advocate, SR.35929
1 cc to the Government Pleader, SR.35916

vc (co)

dv/24.8.06

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